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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-890]

Wooden Bedroom Furniture from the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

SUMMARY: The Department of Commerce (the "Department") is currently conducting a new shipper review ("NSR") of the antidumping duty order on wooden bedroom furniture ("WBF") from the People's Republic of China ("PRC") for the period of January 1, 2011, through June 30, 2011. As discussed below, we preliminarily determine that the producer and exporter Marvin Furniture (Shanghai) Co., Ltd. ("Marvin Furniture") did not satisfy the regulatory requirements to request an NSR; therefore, we are preliminarily rescinding this NSR. We invite interested parties to comment on these preliminary results. See "Comments" section below.

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor or Rebecca Pandolph, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC, 20230; telephone: (202) 482-0989 or (202) 482-3627 respectively.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty order on WBF from the PRC was published on January 4, 2005.¹

¹ See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China, 70 FR 329 (January 4, 2005).

On August 1, 2011, the Department received a request for an NSR from Marvin Furniture. On August 11, 2011, the Department issued a supplemental questionnaire to Marvin Furniture requesting further information regarding its sales and shipment for which Marvin Furniture requested the NSR. On August 19, 2011, Marvin Furniture submitted its response to the Department's supplemental questionnaire and the Department placed on the record of this review U.S. Customs and Border Protection ("CBP") data for entries of WBF imported from the PRC. On August 19, 2011, the Department also sent Marvin Furniture a supplemental questionnaire regarding the results of the CBP data query. On August 24, 2011, Marvin Furniture provided comments on the CBP data. On August 25, 2011, the Department initiated this NSR. See Wooden Bedroom Furniture From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review, 76 FR 54208 (August 31, 2011)("Initiation Notice").

On August 26, 2011 and August 31, 2011, Marvin Furniture responded to the Department's August 19, 2011 supplemental questionnaire regarding the results of the CBP query. On September 7, 2011, the Department issued a supplemental questionnaire to Marvin Furniture asking it to provide documentation for the responses Marvin Furniture provided in its submissions dated August 26, 2011, and August 31, 2011. On September 14, 2011, Marvin Furniture responded to the Department's September 7, 2011 supplemental questionnaire and submitted copies of its entry documents.

On September 19, 2011, the Department sent Marvin Furniture another supplemental questionnaire regarding certain entries. On September 27, 2011, Marvin Furniture responded to the Department's September 19, 2011 supplemental questionnaire. On September 30, 2011, the American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. (collectively "Petitioners") submitted comments on Marvin Furniture's eligibility

for its NSR. On October 14, 2011, Marvin Furniture submitted rebuttal comments to Petitioners' statements.

On August 30, 2011, the Department issued the antidumping questionnaire to Marvin Furniture. On October 24, 2011, and on November 2, 2011, the Department issued supplemental questionnaires to Marvin Furniture regarding its responses to the antidumping questionnaire. During the period September through November 2011, Marvin Furniture responded to the Department's antidumping questionnaire and related supplemental questionnaires. On December 9, 2011, the Department placed certain CBP Entry Documents on the record.

Period of Review

Pursuant to 19 CFR 351.214(g), the period of review ("POR") for this NSR is the semi-annual period of January 1, 2011 through June 30, 2011.

Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or

attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,² highboys,³ lowboys,⁴ chests of drawers,⁵ chests,⁶ door chests,⁷ chiffoniers,⁸ hutches,⁹ and armoires;¹⁰ (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment

² A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

³ A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

⁴ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁵ A chest of drawers is typically a case containing drawers for storing clothing.

⁶ A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

⁷ A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

⁸ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

⁹ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

¹⁰ An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;¹¹ (9) jewelry armories;¹² (10) cheval mirrors;¹³ (11) certain metal parts;¹⁴ (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds¹⁵ and (14) toy boxes.¹⁶

¹¹ As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See CBP's Headquarters Ruling Letter 043859, dated May 17, 1976.

¹² Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, concerning "Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China," dated August 31, 2004. See also Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review, and Determination To Revoke Order in Part, 71 FR 38621 (July 7, 2006).

¹³ Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.*, a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. See Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part, 72 FR 948 (January 9, 2007).

¹⁴ Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

¹⁵ Upholstered beds that are completely upholstered, *i.e.*, containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part, 72 FR 7013 (February 14, 2007).

¹⁶ To be excluded the toy box must: (1) be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (ASTM) standard F963-03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum "Wooden Bedroom Furniture from the People's Republic

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 of the U.S. Harmonized Tariff Schedule (“HTSUS”) as “wooden . . . beds” and under subheading 9403.50.9080 of the HTSUS as “other . . . wooden furniture of a kind used in the bedroom.” In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9042 or 9403.50.9045 of the HTSUS as “parts of wood.” Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, 9403.20.0018, or 9403.90.8041.¹⁷ Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as “glass mirrors . . . framed.” The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Preliminary Rescission of the Antidumping New Shipper Review of Marvin Furniture

The NSR provisions of the Department’s regulations require that the entity making that request for an NSR must document and certify, among other things: (1) the date on which subject merchandise of the exporter or producer making the request was first entered or withdrawn from warehouse, for consumption, or, if it cannot establish the date of first entry, the date on which the exporter or producer first shipped the merchandise for export to the United States; (2) the volume of that and subsequent shipments; and (3) the date of the first sale to an unaffiliated customer in the United States. See 19 CFR 351.214(b)(2)(iv). If these provisions, among others, are met, the

of China: Scope Ruling on a White Toy Box,” dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

¹⁷ On October 27, 2011, CBP provided notification that HTSUS number 9403.90.8041 should be added to the scope of the order, as certain articles under this number may fall within the scope. See Memorandum from Patrick O’Connor to the File, “Request for Customs and Border Protection to Update AD/CVD Module for Wooden Bedroom Furniture from the People’s Republic of China,” dated January 4, 2012.

Department will initiate an NSR to establish an individual weighted-average dumping margin for the new shipper. See generally 19 CFR 351.214(b)(2).

In its request for an NSR, Marvin Furniture provided certified statements that its first entry of subject merchandise into the United States entered on June 20, 2011, and that it had multiple sales, which took place on June 27, 2011, and June 28, 2011. See Letter from Marvin Furniture to the Secretary of Commerce “Request for Initiation of Antidumping New Shipper Review,” dated July 30, 2011. Based on this information, the Department initiated the NSR for Marvin Furniture. See Initiation Notice.

However, based on an analysis of CBP data, the CBP Entry Documents, and Marvin Furniture’s supplemental questionnaire responses, the Department has determined that Marvin Furniture had additional entries that were not reported to the Department in its request for an NSR under 19 CFR 351.214(b)(2)(iv). As noted, in order to qualify for an NSR under 19 CFR 351.214, a company must certify and document among other things, the date of its first entry and the volume of that and subsequent shipments to the United States. Id. Because Marvin Furniture had additional entries of subject merchandise to the United States prior to the POR that it did not report to the Department in its request for an NSR, the Department has preliminarily found that Marvin Furniture’s request for an NSR did not satisfy the regulatory requirements for requesting an NSR, and the Department thus preliminarily determines that it is appropriate to rescind the NSR for Marvin Furniture. As much of the factual information used in our analysis for the rescission of Marvin Furniture’s NSR involves business proprietary information, a full discussion of the basis for our preliminary results is set forth in the Memorandum to Abdelali Elouaradia, AD/CVD Operations, Office 4, “Preliminary Analysis of Marvin Furniture (Shanghai) Co., Ltd.’s Previous Entries in the Antidumping Duty New Shipper Review of

Wooden Bedroom Furniture from the People's Republic of China," dated concurrently with this notice.

Assessment Rates

If the Department proceeds to a final rescission of Marvin Furniture's NSR, the assessment rate to which Marvin Furniture's shipments will be subject will not be affected by this review. The assessment rate, however, could change if the Department conducts an administrative review of the antidumping duty order on WBF from the PRC covering the period of January 1, 2011, through December 31, 2011. Thus, if we proceed to a final rescission, we will instruct CBP to continue to suspend entries during the period January 1, 2011, through December 31, 2011, of subject merchandise exported by Marvin Furniture until CBP receives instructions relating to an administrative review of the WBF order covering the period January 1, 2011, through December 31, 2011.

Cash Deposit Requirements

If the Department proceeds to a final rescission, effective upon publication of the final rescission of the NSR, we will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise exported by Marvin Furniture. Also, if we proceed to a final rescission of the NSR, the cash deposit rate will continue to be the PRC-wide rate for entries exported by Marvin Furniture.

Disclosure

We will disclose our analysis memorandum to the parties to this proceeding not later than five days after the date of public announcement, or, if there is no public announcement, within five days of the date of publication of this notice. See 19 CFR 351.224(b).

Comments

Interested parties are invited to comment on these preliminary results and may submit case briefs within 30 days of the date of publication of this notice, unless otherwise notified by the Department. See 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties are requested to provide a summary of their arguments not to exceed five pages, and a table of the statutes, regulations, and cases cited.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. The Department will issue the final rescission or final results of this NSR, including the results of our analysis of issues raised in any briefs, not later than 90 days after this preliminary rescission is issued, unless the deadline for the final rescission or final results is extended. See 19 CFR 351.214(i).

Notification to Importers

This notice serves as a preliminary reminder to the importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The NSR and notice are in accordance with sections 751(a)(2)(B) and 777(i) of the Tariff Act of 1930, as amended and 19 CFR 351.214(f).

Christian Marsh
Acting Assistant Secretary
for Import Administration

January 4, 2012 _____
Date

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